SERVED: March 1, 2002

NTSB Order No. EA-4958

UNITED STATES OF AMERICA NATIONAL TRANSPORTATION SAFETY BOARD WASHINGTON, D.C.

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD at its office in Washington, D.C. on the 27th day of February, 2002

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JANE F. GARVEY, Administrator, Federal Aviation Administration,

Complainant,

v.

FREDERICK JOHN KRATT,

Respondent.

Docket SE-15239

ORDER DENYING RECONSIDERATION

Respondent has filed requests for reconsideration or for a stay of Board Order No. EA-4917 (served October 23, 2001) pending court review. The petition for reconsideration essentially asks that the Board, given the seriousness of the sanction at issue in the case, revisit arguments previously reviewed and found unpersuasive. We decline to do so, as such a request amounts to a repetitious pleading our rules do not permit. To the extent that respondent has articulated for the first time in his

¹The Administrator's motion for leave to reply to respondent's petition and motion out of time is granted, as respondent will not be thereby prejudiced.

²Section 821.50(d) of the Board's Rules of Practice provides that repetitious petitions for reconsideration "will not be entertained by the Board and will be summarily dismissed."

petition a constitutional challenge to the Administrator's authority to use a criminal conviction to support a certificate revocation, it is answer enough to note that the Board can not entertain such arguments. See, e.g., Administrator v. Lloyd, 1 NTSB 1826, 1828 (1972) (Board has no authority to review constitutionality of FAA regulations).

With regard to the stay request, respondent's motion for such relief does not identify any reason why the Board should not follow here longstanding precedent to the effect that a stay pending judicial review is not available in a revocation action. $\underline{\text{See}} \text{ Administrator v. Balestra}, \text{ 7 NTSB 33 (1990), } \underline{\text{aff'd}} \text{ 923 F.2d} \\ \underline{\text{120 }} (8^{\text{th}} \text{ Cir. 1991}).$

ACCORDINGLY, IT IS ORDERED THAT:

Respondent's petition for reconsideration and his motion for stay are denied.

BLAKEY, Chairman, CARMODY, Vice Chairman, and HAMMERSCHMIDT, GOGLIA, and BLACK, Members of the Board, concurred in the above order.